IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3010 OF 2005

Shri Ramesh Anna Gurav ... Petitioner

V/s

Zilla Parishad, Satara & ors. ... Respondents

Mr. Upesh Bobade holding for Mr. R.V. More for the petitioner.

CORAM: P.V. KAKADE, J.

DATED: 10TH JANUARY, 2006

P.C.:

1. Heard learned counsel for the petitioner. Perused the record.

2. The petition is aimed against the judgment and order passed by the Member, Industrial Court, Satara, dated 15.12.2004 dismissing the complaint (ULP) No. 54 of 2001 as barred by limitation.

3. The complaint was filed by the petitioner under Sec. 28 of the M.R.T.U. & P.U.L.P. Act, alleging that the respondents are engaged in unfair labour practice under

Item Nos. 5, 9 & 10 of Schedule IV of the said Act.

The complainant was serving as Leprosy Technician in the Health Department of Zilla Parashad, Satara since the year 1970. The complainant was serving at Mhaswad, Tal. Man from June, 1985 to June, 1987 and the Medical officer was the immediate superior of the complainant and was also the Controlling Authority. The complainant was transferred at Kelghar, Tal. Jawali after 1987. The complainant is confirmed in service and he is given benefits of permanency in the year 1994. The complainant was issued with order dated 23.9.1986 by levelling charges including that of not remaining present in the head quarter. The enquiry was completed and punishment was inflicted upon the complainant by reverting him back to his erstwhile basic pay scale and to treat the period from 15.1.1986 to 6.3.1986 as without pay vide order dated 10.12.1987.

Thereafter nothing was done and the complaint came to be filed on 19.4.2001 i.e. after a lapse of period of 13 years and four months and 9 days, whereas the limitation in filing the complaint is 90 days after actual cause of action.

4. On the basis of these aspects, the Member, Industrial Court has come to the conclusion that the complaint is wholly barred by the law of limitation and it was dismissed. Hence the present petition.

5. At the outset, it may be noted that there is no explanation coming-forth before this Court from the complainant for delay or before the lower Court even today. It is sought to be dismissed stating that the application was made firstly before the Labour Commissioner in the year 1999 and thereafter complaint came to be filed in 2001. However, there is no explanation as to what the complainant was doing since the year 1987 till the date of filing of the complaint. Perusal of the judgment of the lower Court also shows that he has also taken into account the merits of the matter holding that the allegations do not even involved ingredients of either Item 5 of Sschedule IV or Item 9 of the said Schedule. It is seen from the record tht Item 5 which speaks about the partiality to one set of workers regardless of their merits is not involved in the present case. So far as Item 9 is concerned which relates to failure to implement award, settlement or agreement, admittedly, there is no agreement or settlement was arrived at between the complainant and

respondents and, therefore, the commission of unfair labour practice under Item 9 of Sh.IV cannot even arise.

6. The lower Court has also taken into account various rulings relied upon by the petitioner holding that those are not applicable to the present case. I fully agree with the same view. Perusal of the entire order show that there is no perversity in recording the findings that the petition is barred by limitation and, therefore, I do not see any merits in the petition and, as such, the petition stands dismissed in limine. No order as to costs.

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